

# **CERTIFIED ACCESS SPECIALIST PROGRAM**

**Division of the State Architect**

## **Transcript of Public Workshop February 7, 2006**

Oakland Marriott Hotel  
1001 Broadway  
Oakland, California

### **Facilitator**

Salina Polston

### **DSA Staff**

Rod Higgins  
Michael Mankin  
Andreas P. Michael  
Mark Smith

### **Other Participants**

Joe Abbott, Plumas County  
Jim Abrams, California Hotel & Lodging Association  
Rocky Burks, Marin County ADA Coordinator  
Christine Calabrese, City of Oakland ADA Coordinator  
Hol Lyn D'Lil  
Francine Moore  
John Hill  
Kevin Jensen, ADA Coordinator, San Francisco Department of Public Works  
Peter Margen  
Michael Paravagna, CA Department of Rehabilitation  
Gilda Puente-Peters  
Jean Reiker  
Barry Ryan  
Richard Skaff  
Rob Thacker, inspector  
Chris Vaughn  
George White  
Lara Williams, Californians for Disability Rights  
Erike Young, Bickmore Risk Services

### **1 Welcome and Introductions**

2 Ms. Salina Polston called the public workshop session to order at 1:00 p.m.

3

4 Mr. Michael Mankin welcomed everyone. He introduced the members of the CASp  
5 development team. He asked participants to identify themselves before speaking.

1

2 Mr. Mankin explained that the purpose of the workshop was to receive input on the  
3 proposed certification program for access specialists in California. He noted that in  
4 response to the enabling legislation, DSA developed the proposed regulations in  
5 conjunction with many stakeholders. He expressed his appreciation to the staff for their  
6 efforts.

7

8 Ms. Polston explained the workshop format and procedure. She drew attention to the  
9 colored comment forms for each of the three main themes identified by DSA. She  
10 noted the three primary areas on which DSA is seeking feedback are the certification  
11 classifications and qualifications; expected knowledge and professional roles of certified  
12 access specialists; and program oversight, public confidence, and handling of  
13 complaints.

14

15 Mr. Mark Smith encouraged interested parties to add their names to DSA's mailing list.  
16 He provided a brief background and description of the CASp program. Mr. Smith said  
17 the Implementation Advisory Committee also identified three overall goals of the CASp  
18 program: 1) providing clarity, 2) fostering collaboration, and 3) improving consistency.

19

20 Mr. Smith noted that after working with stakeholders and looking at six possible  
21 certification classifications, the Implementation Advisory Committee recommended  
22 launching the program with two certification classifications, Certified Access Architects  
23 and Certified Access Investigators. He added that DSA plans to add a Certified Plan  
24 Reviewer classification after the program gets underway.

25

26

1    **Certification Classifications and Qualifications**

2    Mr. Smith described the functions of the Certified Access Investigators, or individuals  
3    who uncover problems and issues, and Certified Access Architects, or people who solve  
4    problems. He pointed out the substitute experience and education requirements for  
5    people coming from untraditional backgrounds.

6  
7    Mr. Richard Skaff expressed concern about the proposed classifications and  
8    qualifications as well as the kinds of testing applicants will undergo to measure their  
9    knowledge and skills. He noted the State of California already has certified architects  
10   and contractors, and although certification is supposed to reflect a basic level of  
11   competence, the process has not always been effective. He said the state should be  
12   enforcing and monitoring existing certification programs before establishing new ones.

13  
14   Mr. Skaff noted the only real way to assess a certified specialist's performance is to see  
15   his or her work. He expressed concern about the ability of the DSA staff to handle  
16   monitoring of the program, given staffing and budgeting constraints.

17  
18   Mr. Mankin said the CASp program resulted from the desire of building owners to limit  
19   liability and minimize the costs of accessibility compliance. He emphasized the need to  
20   establish recognized standards of practice, and noted the certification program will help  
21   professionalize the field.

22  
23   Ms. Hol Lyn D'Lil said she had great concerns about the proposed regulations because  
24   they create a situation ripe for exploitation by people opposed to access. She observed  
25   that for the past three and a half decades, the U.S. has had a tradition of widespread  
26   noncompliance with access laws. She recommended holding architects and building

1 officials accountable for designing and enforcing accessibility. Ms. D'Lil questioned the  
2 effectiveness of licensing the very people whose lack of compliance has created the  
3 current situation.

4

5 Mr. Mankin acknowledged the concerns raised by Ms. D'Lil. He said the program  
6 comes with a complaint process and a method for addressing quality problems.

7

8 Mr. Smith emphasized that the CASp program entails certification of individuals only,  
9 not certification of buildings. He noted there could be follow-up legislation in the future  
10 to expand the certification authority defined in the enabling statute.

11

12 Mr. Chris Vaughn said he had several questions regarding interpretation of the  
13 regulations. First, he asked for examples of the kinds of alternative experience and  
14 education that would meet the qualifications. He noted the term "eligible experience,"  
15 used in Section 301(2)(b) is not defined.

16

17 Mr. Mankin explained the process for qualifying by nontraditional means. He noted two  
18 years of involvement in a specialized area, plus two years of additional experience,  
19 could substitute for the normal experience and education requirements. He added that  
20 examples of nontraditional backgrounds might be working for an independent living  
21 centers or serving as court monitors.

22

23 Ms. Francine Moore reported that she attended a training session for architects  
24 provided by Michael Gibbons, who stated that the only way progress will be made is if  
25 people get sued.

26

1 Ms. Moore encouraged DSA to provide teleconferencing facilities so people can  
2 participate in workshops without traveling. She also recommended holding a fourth  
3 workshop session in Sacramento.

4  
5 Ms. Moore asked if certification exams will be open-book tests.

6  
7 Mr. Rod Higgins said DSA will consider an open-book test. He emphasized that DSA  
8 wants to gather as much input as possible before making these decisions.

9  
10 Mr. Smith stated that teleconferencing is an option allowed under the open meeting law,  
11 and he said DSA will try to make those arrangements.

12  
13 Ms. Christine Calabrese gave a brief description of her background and experience.  
14 She noted many architectural firms do as little as possible to comply with accessibility  
15 requirements. She expressed concern about creating new layers of bureaucracy that  
16 will further impede progress.

17  
18 Mr. Smith said the CASp program will increase awareness by members of the public so  
19 they increasingly demand certified specialists. Mr. Mankin added that access  
20 investigators can help building owners identify deficiencies and performance problems.  
21 He noted DSA expects the CASp program to raise the bar and set a new standard of  
22 professionalism in the field.

23  
24 Mr. John Hill, inspector, attested to the need for a certification program. He expressed  
25 his belief that the program will make everyone, including architects, more accountable.

1 He added that there are many architects and inspectors in California who qualify for  
2 certification.

3

4 Mr. Mankin agreed that establishing a more recognized standard procedure will benefit  
5 everyone.

6

7 Mr. Smith said DSA looked at Texas' Registered Accessibility Specialist program as a  
8 model. He noted a key component of that program is inspection of the completed  
9 construction by a registered specialist within one year of completion.

10

11 Mr. Skaff clarified that the disability community was recently successful in getting a  
12 signed agreement with the State Architect that requires DSA to provide televised  
13 meetings at the four district offices and to develop an interpretive manual on each  
14 provisions of Title 24.

15

16 Mr. Skaff observed that there are still many architects licensed by the State of California  
17 who are unable to produce compliant plan sets. Mr. Mankin acknowledged that there  
18 are varying levels of competence within every professional field. He noted the best  
19 architects consult experts when they need specialized information. He expressed  
20 support for the idea of establishing well recognized standards of excellence.

21

22 Ms. Polston proposed moving on to the next topic.

23

1 **Expected Knowledge and Professional Roles of Certified Access Specialists**

2 Mr. Smith explained the distinction between a licensing program, or one run by the  
3 government to protect the public, and a certification program, which verifies a certain  
4 basic level of competence and knowledge within a field. He said DSA chose to create a  
5 certification program, also recognizing the need to address problems and abuses in  
6 accessibility.

7  
8 Mr. Smith said all certification candidates will be required to pass a rigorous written  
9 exam. Ideally, he noted, that exam would be an open-book test including essay  
10 questions on clinical scenarios, but the initial certification exam will probably take the  
11 form of a closed-book multiple-choice test.

12  
13 Ms. D'Lil commented that the Texas registration program only deals with new  
14 construction, and weeks of training are provided to applicants. She noted the program  
15 tends to be "lawsuit-driven" rather than focused on building professionalism and  
16 improving compliance.

17  
18 Mr. Smith clarified that the Texas program goes beyond new construction and covers all  
19 projects involving plan review and inspection. He noted the training takes place over a  
20 very short period like a weekend, not several weeks.

21  
22 Mr. Smith emphasized that the CASp program represents an important step in  
23 accessibility compliance in California, and will change how projects are designed and  
24 built. He said the underlying tenets of the CASp program rest on principles of universal  
25 design, reflecting the spirit of the ADA: universal participation, universal benefits, and

1 integrated settings. He noted this entails a major shift from a regulatory-based  
2 paradigm to a performance-based approach.

3

4 Mr. Skaff observed that some industries wait to be sued before complying with access  
5 requirements. He noted the system has failed because business owners resist, and  
6 architects and contractors take direction from the owners. He added there is a very  
7 wide and varied approach to access today, making it difficult to come up with generic  
8 solutions.

9

10 Mr. Skaff questioned the effectiveness of a written exam in measuring the real  
11 qualifications of a specialist without any plan review component. Mr. Mankin pointed  
12 out that DSA recognizes the need to improve the exam, but believes it would be best to  
13 implement a simple initial program pending those refinements. He noted the focus of  
14 the first exam should be to verify core knowledge and minimum competency. He added  
15 that the passing threshold for the test can be modified over time.

16

17 Mr. Peter Margen said his initial reaction to the CASp program was negative, but his  
18 opinion has changed over time as the program has developed. He cautioned that a  
19 certification program only verifies a person's ability to pass a test, and he urged DSA to  
20 be very careful about making any other claims about what the program will do.

21

22 Mr. Margen expressed his opinion that there will continue to be a morass in the field of  
23 accessibility because of prevailing attitudes and people's unwillingness to change.

24

25 With respect to the proposed qualifications, Mr. Margen noted allowing work experience  
26 through employment with a "consulting firm" seems very broad. Similarly,



1 "history of involvement in a specialized area of disability access rights" does not  
2 necessarily ensure knowledge of building codes and accessibility standards.

3

4 Mr. Smith noted the experience and qualifications provisions have been the primary  
5 focus of many program development discussions. He suggested changing the wording  
6 to "employment by a code enforcement agency or a code consulting firm." He said  
7 candidates applying on the basis of nontraditional experience will need to submit a  
8 dossier documenting their experience, and he drew attention to Section 301(a)(1).

9

10 Ms. Moore commented that the original intent in establishing the CASp program was not  
11 to limit eligibility to architects and building officials. She noted there is no way to  
12 guarantee that architects or building officials with long histories of ignoring the law will  
13 begin enforcing and complying with the law. She urged DSA to open eligibility to non-  
14 architects and people other than government officials.

15

16 Mr. Mankin acknowledged that certification cannot guarantee ethical practice. He said  
17 there is a complaint process to help verify the program is working, and there is a  
18 disciplinary process to address incompetence and abuses.

19

20 Ms. Lara Williams expressed concern that the proposed regulations only set minimum  
21 standards, and people will gradually come to view the minimums as maximums. She  
22 noted the CASp program emphasizes the building standards side rather than the  
23 disability rights side. She said civil rights and maximum inclusion should be the  
24 overriding principle of all access programs.

25

1 Ms. Williams said the \$16 million renovation of the Griffith Park Observatory is an  
2 example of how accessibility laws are ignored. She pointed out that wheelchairs still  
3 need to enter through a back door, and the steps to the observatory equipment are not  
4 accessible at all.

5

6 Mr. Mankin noted the vagueness of some of the current regulations compounds  
7 enforcement problems. He stated that improved accountability and equity are major  
8 goals of the CASp program.

9

10 Mr. Smith reviewed the accessibility knowledge base expected of Certified Access  
11 Investigators.

12

13 Mr. Kevin Jensen commented that architecture schools do not teach accessibility, and  
14 the subject is not part of accreditation standards. He noted there is still considerable  
15 resistance in academia, a situation that must change. Mr. Jensen recommended  
16 working to get access covered in state and national architect licensure exams. He also  
17 suggested requiring continuous education to make sure certified access specialists stay  
18 current in the field. Mr. Jensen observed that the complaint process is an inadequate  
19 way of addressing problems because enforcement staff and resources are very limited.

20

21 Mr. Jensen expressed general support for the CASp program, noting it will help ensure  
22 a basic level of knowledge and experience and set a higher bar for professional  
23 standards.

24

25 Mr. Jim Abrams expressed his opinion that the CASp program was one of the most  
26 positive steps forward for disabled people, building owners, and enforcement officials in

1 California. He said the certification program will provide building owners with a way of  
2 finding qualified people to advise them on accessibility issues.

3

4 Mr. Rob Thacker stated that as an inspector, he welcomed the program because it  
5 defining a standard base of knowledge for California. He pointed out that all building  
6 codes set minimum standards for construction, and getting compliance is not easy. He  
7 noted that on large public works projects, the state fire marshal or sheriff can deny  
8 occupancy if code violations are found. He said certified access specialists will be  
9 ineffective if they lack enforcement authority. Mr. Thacker suggested requiring all plans  
10 submitted to DSA to be checked by a certified access specialist before approval.

11

12 Mr. Thacker added that he would have liked more advance notice of this workshop  
13 meeting.

14

15 Mr. Mankin said Caltrans is now required to have all plans reviewed by a certified  
16 access specialist within one year after the CASp program starts, and DSA has begun  
17 requiring contracted plan review services to hire certified access specialists to perform  
18 the work.

19

20 Ms. Calabrese commented that DSA appears to be saying the CASp program tests that  
21 code enforcement professionals and designers have a basic core knowledge of access  
22 regulations in California, but the laws and regulations to be covered in the exams  
23 embrace larger issues of disability civil rights.

24

25 Ms. Calabrese expressed concern that many design professionals lack a recognition of  
26 how physical access compliance and programmatic access can intersect. She noted

1 people applying for certification should understand their responsibility includes ensuring  
2 disability civil rights through physical access.

3

4 Mr. Mankin clarified that DSA wants certified access specialists to pay attention to all  
5 three levels of code compliance, performance, and civil rights.

6

7 Mr. George White described his background in public works, construction, and disability  
8 access requirements. He recommended making Section 302 more specific with respect  
9 to the core knowledge base rather than using qualifiers like “not limited to.” He noted  
10 exam candidates have a right to know what will be on the test. He suggested that DSA  
11 identify the “optional” professional resources so applicants are aware of those materials.

12

13 Mr. Smith said DSA will be publishing a detailed description of each knowledge, skill,  
14 and ability (KSA) expected of certification applicants.

15

16 Mr. Erike Young, risk control manager, explained that his company administers  
17 insurance programs for about 500 cities, counties, and schools in California. He noted  
18 having the certification program is a step in the right direction because it will help clarify  
19 and interpret the applicable regulations.

20

21 With respect to minimum standards, Mr. Young commented that there are so many  
22 occupational safety and health regulations that total compliance is virtually impossible.  
23 He said the risk control profession has its own voluntary “Certified Safety Professional”  
24 and other safety classifications as a way of raising the bar. He noted the state recently  
25 enacted an independent evaluation requirement for self-insured entities, and a similar

1 independent process might address some of the concerns expressed about the CASp  
2 qualifications.

3

4 Mr. Rocky Burks relayed Mr. Jürgen Dostert's concerns about mandating written  
5 contracts in Section 605(a). He said DSA decided to provide an opt-out provision, so  
6 "shall" with "should."

7

8 Mr. Burks commented that although he initially opposed the CASp program and its  
9 enabling legislation, he eventually came to see the program as a good way of helping  
10 people in both the public and private sector achieve accessibility compliance. He  
11 encouraged DSA and stakeholders to work together to make the program a success.

12

13 Mr. Skaff raised concerns about limiting the potential liability of certified experts. He  
14 asked whether applicants will be required to undergo training through the DSA Academy  
15 to ensure some level of consistency in code interpretation.

16

17 Mr. Mankin explained that regulatory agencies are not allowed to require or endorse  
18 particular training programs. He noted DSA plans to develop its own training programs  
19 through the DSA Academy, and courses are also offered through other training  
20 providers.

21

22 Mr. Higgins said that when the DSA Academy gets underway, it will offer classes in  
23 accessibility, scoping, universal design, and other related topics.

24

25 Ms. Polston proposed moving on to the third topic.

26

1    **Program Oversight, Public Confidence, and Handling of Complaints**

2    Mr. Smith said DSA is proposing a process of minimal enforcement, consisting primarily  
3    of investigating complaints. He noted DSA plans to use an Oversight Committee to  
4    monitor the program for its first five years.

5

6    Ms. Jean Reiker asked about checks and balances to prevent potential conflicts of  
7    interest.

8

9    Mr. Mankin said DSA will be paying close attention to conflicts of interest during the  
10    early years of the program to see if additional regulations are necessary. He noted DSA  
11    expects standards of practice to emerge from the program that will help clarify those  
12    issues.

13

14    Mr. Smith reviewed the investigative standard described in Section 602 and the  
15    judgment standard in Section 603. He noted certified access specialists are required to  
16    cite code references for each deficiency identified.

17

18    Ms. D'Lil observed that accountability needs to be an important feature of the CASp  
19    program. She recommended creating a new body to handle disciplinary matters. She  
20    expressed her opinion that members of the Oversight Committee should have some  
21    expertise in accessibility. Ms. D'Lil questioned the composition of the committee, noting  
22    that some of the constituents represented there have been opponents of accessibility.  
23    She urged DSA to reconsider its makeup.

24

25    Mr. Smith said the language of SB 262 prescribes the composition of the committee,  
26    and DSA added additional stakeholders to the list. He noted members will be chosen

1 not because they practice as certified access specialists, but to advise the State  
2 Architect on the effectiveness of the program from a broader stakeholder perspective.

3

4 Mr. Smith pointed out the provisions in Section 802 indicate DSA will utilize the state's  
5 Office of Administrative Hearings in conducting disciplinary proceedings.

6

7 Ms. Williams stated that the enforcement, the major problem for the past 35 years, is  
8 still not being addressed. She pointed out that speeding would be much worse traffic  
9 problem if police relied on complaints to enforce speed laws. She noted relying on  
10 complaints will turn complainers into pariahs within their communities, and it will not  
11 address the problems.

12

13 Mr. Mankin acknowledged Ms. Williams' concerns and agreed enforcement is a major  
14 concern. He said DSA appreciates the feedback even if there are no immediate  
15 solutions.

16

17 Ms. Polston encouraged participants to stay after the meeting to talk with staff and other  
18 people informally.

19

20 Referring to Section 402, Mr. Skaff asked how DSA will assess "program effectiveness."

21 Mr. Mankin said some of these issues will be fleshed out as the program gets  
22 underway. He added that he did not envision the Oversight Committee as being a  
23 closed or exclusive group, and he welcomed participation from all interested parties.

24 Mr. Skaff objected to the nine-person group proposed.

25

1 Mr. Smith read the proposed provisions regarding composition of the Oversight  
2 Committee.

3

4 Ms. Reiker asked how DSA planned to address potential conflicts of interest. She  
5 expressed concern about “hijacking” the disability community’s civil rights in favor of  
6 more powerful forces. Mr. Smith explained the applicable Government Code provisions.

7 Mr. Mankin added that individual certified access specialists will gain reputations if they  
8 provide questionable services.

9

10 Mr. Santeo Garza, architect, City and County of San Francisco, expressed concern  
11 about how the new program will actually work in the field. He noted there is likely to be  
12 friction if certified access specialists are viewed as imposing new requirements.

13

14 Mr. Joe Abbott asked whether DSA had conducted risk modeling to predict the likely  
15 impact of the CASp program in terms of making changes. He said he would very much  
16 like to see the program succeed.

17

18 Mr. Mankin noted the CASp program was created and enacted by statute, and some  
19 background was provided as part of the rulemaking package. He said the Oversight  
20 Committee will be the vehicle assessing impacts during the first five years of the  
21 program. He added that it might take as long as ten years to professionalize the field  
22 and change standards of practice.

23

24 Ms. Williams stated that California still has classrooms that are not accessible to  
25 children, athletic events and performances that are not accessible to parents, and office  
26 facilities that are not accessible to the public. Given their known inadequacies, she



1 expressed strong concern about using these school buildings as emergency shelters.  
2 She said members of the disabled community are still not getting the access that was  
3 promised 35 years ago by state code and 15 years ago by federal code.

4  
5 Mr. Mankin said the staff will convey these concerns to the State Architect.

6  
7 Mr. Jensen noted the wording of Section 301(a)(1)(A) should be changed to indicate a  
8 “California code enforcement agency,” “California licensed designer,” and “California  
9 licensed contractor.” In Section 302, Mr. Jensen recommended citing ADAAG as well  
10 as the ADA. In subparagraph (a), he suggested including language about the purpose,  
11 and he proposed adding subparagraph (b) about what happens after the annual  
12 interview.

13  
14 Mr. Jensen commented that Article 4 should provide ways of earmarking funds for the  
15 CASp program so they cannot be taken for other purposes. He recommended making  
16 the Oversight Committee more broad-based and inclusive, with a state ADA  
17 coordinator, a local ADA coordinator, a CASp investigator, a CASp architect, a state  
18 public works director, and a local public works director. He suggested holding additional  
19 focus groups to solicit feedback from other stakeholders. Mr. Jensen spoke in support  
20 of requiring written contracts and allowing an opt-out process.

21  
22 Ms. D’Lil said she was a bit disappointed with the responses from staff and panelists.  
23 She reported that officials in the last election could not use newly constructed schools  
24 as polling places because they are inaccessible. She noted this indicates DSA has not  
25 been doing its job ensuring compliance, and she expressed doubt that the certification  
26 program will improve that situation.

1

2 Ms. Moore asked who will be providing sensitivity training to certification applicants.  
3 She noted disabled people and accessibility specialists have a far different  
4 understanding of building issues than many architects.

5

6 Ms. Moore commented that having an Oversight Committee made up of paid state  
7 workers will not produce the same candid feedback that disability advocates and  
8 specialists can provide. She urged DSA to include more members of the disabled  
9 community on the group.

10

11 Mr. Higgins noted an earlier version of the proposed regulations called for certified  
12 access specialists to have sensitivity training, and he expressed support for that  
13 concept.

14

15 Ms. Polston thanked all participants for their comments and suggestions. She noted the  
16 feedback is important to DSA, and she encouraged interested people to stay after the  
17 meeting to talk to each other individually.

18

19 **Adjournment**

20 There being no further business, the meeting was adjourned at 4:15 p.m.